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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

T.B., Allison Brenneise and Robert Brenneise, Plaintiffs, v. SAN DIEGO UNIFIED SCHOOL DISTRICT, Defendant.	Case No. 08 CV 0028 WHQ WMc (Consolidated with 08 CV 00039 WQH WMc) **SAN DIEGO UNIFIED SCHOOL DISTRICT'S NOTICE OF MOTION AND MOTION TO DISMISS AND/OR STRIKE COUNTERCLAIMS AND FOR SANCTIONS [F.R.C.P. Rule 12(b)(1), 12(b)(6), 12(f); 28 U.S.C. § 1927; Local Rule 83.1]** Date: September 8, 2008 Time: 9:00 a.m. Courtroom: 4 Judge: Hon. William Q. Hayes Trial: None Set Complaint Filed: January 4, 2008 **NO ORAL ARGUMENT UNLESS REQUESTED BY COURT**
SAN DIEGO UNIFIED SCHOOL DISTRICT, Plaintiff, v. T.B., a minor, Allison Brenneise and Robert Brenneise, his parents, Steven Wyner, and Wyner and Tiffany, Defendants.	

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 8, 2008, at 9:00 a.m. or as soon thereafter as the matter may be heard in Courtroom 4 of the above-entitled Court, located at 940 Front Street, San Diego, California, 92101, San Diego Unified School District ("District") will and hereby does move this Court for an order dismissing with prejudice the Counterclaims for Relief filed by T.B., Allison Brenneise and Robert Brenneise, pursuant to Federal Rules of Civil Procedure, Rule 12, subdivisions (b)(1) and (b)(6). In the alternative, the District moves for an order striking those Counterclaims under Federal Rule of Civil Procedure 12(f) for not being filed in accordance with Federal Rule of Civil Procedure 15(a).

The District also will and does hereby move this Court for an order imposing monetary sanctions on the Brenneises' counsel, Steven Wyner, Marcy Tiffany, and Wyner and Tiffany, for filing their Second Counterclaim on the same grounds as their Third Claim for Relief which was dismissed by this Court without leave to amend in its June 24, 2008 order and without compliance with Federal Rule of Civil Procedure 15(a). Sanctions are sought in the amount of $6,377.50 pursuant to 28 U.S.C. Section 1927, Civil Local Rule 83.1, and this Court's inherent authority.

This motion is based upon this Notice of Motion, the Memorandum of Points and Authorities and declarations submitted concurrently herewith, the pleadings and papers on file herein and such further documentary or oral evidence and argument as may be presented at the hearing.

Dated: August 4, 2008

MILLER BROWN & DANNIS

By: /s/ Amy R. Levine
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